

MPR:CRH/RCH
F.# 2017R00354

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
- - - - - X

UNITED STATES OF AMERICA

- against -

EDGAR VEYTIA,

Defendant.

APPLICATION TO CLOSE
COURTROOM AND FILE
DOCUMENTS UNDER SEAL

Docket No. 17-CR-115 (CBA)

- - - - - X

RICHARD P. DONOGHUE, United States Attorney for the Eastern District of New York, by Assistant United States Attorney Craig R. Heeren, submits this application for an order to close the courtroom for a portion of the defendant's sentencing hearing and seal the transcript of the proceedings.

1. To comply with the notice requirements set forth in United States v. Alcantara, 396 F.3d 189 (2d Cir. 2005), the government respectfully requests that: (1) a public hearing on this motion be scheduled for September 26, 2019, at 10:00 AM, just prior to the sentencing hearing; (2) the Court's public calendar reflect that the defendant has filed a motion for courtroom closure, along with the time and place of the hearing; and (3) the public docket sheet in the above-captioned case reflect that a motion for courtroom closure has been filed, as well as the date, time and place of the hearing on the motion. Finally, the government respectfully requests that, after holding a public hearing on the government's

motion on September 26, 2019, the Court enter the enclosed proposed order regarding partial courtroom closure and sealing.

2. The Second Circuit explained in Alcantara that “[t]he motion itself may be filed under seal, when appropriate, by leave of court, but the publicly maintained docket entries should reflect the fact that the motion was filed, the fact that the motion and any supporting or opposing papers were filed under seal, the time and place of any hearing on the motion, the occurrence of such hearing, the disposition of the motion, and the fact of courtroom closure, whether ordered upon motion of a party or by the Court sua sponte.” Id. at 200.

3. The defendant has submitted a motion to close the courtroom, under seal. The government has filed a response to that motion, under seal, which consents to a partial closure of the courtroom. The defendant’s motion and government’s response contain specific facts sufficient to support the necessary findings for the court to close the courtroom following the public hearing.

4. The facts contained in the sealed motion and response establish (1) a substantial probability of prejudice to a compelling interest of the defendant, government or third party; (2) no reasonable alternative to closure can protect the compelling interest; (3) prejudice to the compelling interest overrides the qualified First Amendment right of access; and (4) the requested closure order is narrowly tailored to protect the compelling interest.

WHEREFORE it is respectfully requested that this Court, after holding a public hearing, enter an order to partially close the courtroom, which contains findings

reflecting: (a) the substantial probability that a public proceeding would prejudice the compelling interests identified above; (b) the lack of reasonable alternatives to courtroom closure; and (c) that the prejudice to the compelling interests overrides the qualified right of the public and the media to access the proceedings.

Dated: Brooklyn, New York
September 16, 2019

RICHARD P. DONOGHUE
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By:



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